

Docket No. _____

In re: Application of Chem-Nuclear Systems,)
 LLC, a subsidiary of Duratek, Inc., for)
 Adjustment in the Levels of Allowable)
 Costs and for Identification of Allowable)
 Costs)
 _____)

APPLICATION
 (for Fiscal Year 2012-2013)

1. On June 6, 2000, the Governor of the State of South Carolina signed the Atlantic Interstate Low-Level Radioactive Waste Compact Implementation Act (the “Act”). The Act is codified as S.C. Code Ann. §§ 48-46-10, *et seq.* (1976), as amended.

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3. Section 48-46-40(B)(3) of the Act provides that “allowable costs” expressly include the costs of certain specifically identified activities necessary in the operation of a low-level radioactive waste disposal facility. That Section also provides that “allowable costs” include “any other costs directly associated with disposal operations determined by [the Commission] to be allowable.”

4. Chem-Nuclear operates a regional low-level radioactive waste disposal facility in Barnwell County, South Carolina (the “Facility”). Consequently, the Commission has the authority to identify the “allowable costs” for the Company’s operation of the Facility.

5. The Facility is located on a tract of land consisting of approximately 235 acres which the State of South Carolina owns and which the Company leases from the South Carolina Budget and Control Board (the “Board”). The 235-acre site includes areas for various operations, including completed disposal trenches, potential trench areas, ancillary facilities, water management areas and buffer zone areas.

6. The Company conducts its operations at the Facility under South Carolina Radioactive Material License 097 (“License 097”) by which the South Carolina Department of Health and Environmental Control (“DHEC”) has authorized receipt, storage and disposal of low-level radioactive waste at the Facility. License 097 contains numerous technical conditions and specifications for management of waste at the Facility. In addition to the requirements of License 097, the Facility is subject to DHEC’s regulations in 24A S.C. Code Reg. 61-63 (Supp. 2010). DHEC’s regulations are compatible with the provisions of “Licensing Requirements for Land Disposal of Radioactive Wastes,” which the United States Nuclear Regulatory Commission (“NRC”) originally promulgated in 10 C.F.R. Part 61, and DHEC has adopted most of those provisions and enforces them through its own regulations under an agreement with the NRC.

7. On May 22, 2012, the Commission issued its Order No. 2012-400 in Docket No. 2000-366-A. In that Order, the Commission identified certain categories of “allowable costs” and identified levels of “allowable costs” within those categories. Order No. 2012-400 approved certain rates for variable allowable costs and identified the sum of \$2,754,248 for total fixed allowable costs for the 12 months ending June 30, 2012. The Order also approved irregular costs of \$187,654 as allowable costs.

8. S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2010) provides that an operator of a low-level radioactive waste disposal site may apply for adjustments in the levels of “allowable costs” that the Commission has identified for the previous fiscal year and for identification of costs that the Commission has not previously identified as “allowable costs.” Upon approval of such application, Section 48-46-40(B)(4) requires the Commission to authorize the site operator to adjust its “allowable costs” for the current fiscal year to compensate the site operator for revenues lost during the previous fiscal year.

9. For the purposes of this Application and its Exhibits, the Company has used the cost categories that the Commission approved in Order No. 2012-400, which were based on the recommendations of the parties to the Collaborative Review of the Company’s Operations and Efficiency Plan (“OEP”).

10. During the Company’s recently concluded Fiscal Year 2011-2012 (*i.e.*, the twelve months ending June 30, 2012), the Company’s actual “allowable costs” in those categories that the Commission identified in Order No. 2012-400 for fixed costs were \$2,912,165. By this Application, the Company requests the Commission to approve the levels of actual fixed allowable costs for Fiscal Year 2011-2012 to permit the Company to be compensated for those allowable fixed cost components identified in Order No. 2012-400, as authorized by Section 48-46-40(B)(4). Consequently, the Company proposes an adjustment of \$157,917 for allowable fixed costs in this Application.

11. With respect to those allowable costs which Order No. 2012-400 characterized as irregular costs, the Company incurred total irregular costs for Fiscal Year 2011-2012 which are \$86,237 more than the costs identified in Order No. 2012-400. The \$86,237 includes \$14,744 of Institutional Overage Costs, which represents Institutional Costs over the annual cap that can be paid from the Decommissioning Trust Fund. Therefore, the Company proposes an adjustment of \$86,237 for irregular costs in this Application.

12. With respect to the allowable costs that Order No. 2012-400 characterized as variable labor and non-labor costs, which are dependent upon volumes of waste buried, the Company incurred actual costs in the category of variable labor and non-labor costs in Fiscal Year 2011-2012 of \$231,559, which is less than the costs identified in Order No. 2012-400, using the variable cost rates identified by the Commission in that Order for categories of waste and using the volumes of waste buried in Fiscal Year 2011-2012. Therefore, the Company requests no adjustment for variable labor and non-labor costs in this Application.

13. With respect to vault costs, Order No. 2012-400 established certain variable cost rates for each type of waste disposed at the Facility. By applying those rates to the volumes of each type of waste actually buried in Fiscal Year 2011-2012, the Company had calculated a total cost for routine disposal vaults of \$417,653. Based on the Company's actual experience in Fiscal Year 2011-2012, the Company incurred a cost of \$437,861 for routine disposal vaults. Therefore, the Company proposes an adjustment of \$20,208 for this category.

14. The Company has attached to this Application three (3) exhibits pertaining to the adjustments and identification of the categories of "allowable costs" for its disposal operations.

15. **Exhibit A** to this Application describes in detail the Company's proposed adjustments for the recovery of its actually incurred costs for fixed, variable and irregular costs to reflect the differences between the level of "allowable costs" identified in Order No. 2012-400

and the level of the Company's actually incurred costs in Fiscal Year 2011-2012. Exhibit A also provides the rates for variable costs which were contained in Order No. 2012-400.

16. **Exhibit B** describes the actual irregular costs which the Company incurred in Fiscal Year 2011-2012, organized by project number.

17. **Exhibit C** depicts the total fixed costs, irregular costs and variable cost rates that the Company proposes for identification and approval for Fiscal Year 2012-2013.

18. For Fiscal Year 2012-2013, the Company requests identification as "allowable costs" a total of \$3,098,772 as allowable fixed costs, as depicted in **Exhibit C**. Exhibit C also identifies variable material cost rates and variable waste dependent labor rates for Fiscal Year 2012-2013. Irregular costs for Fiscal Year 2012-2013 anticipated at the time of this Application are \$191,172, as specified in Exhibit C. The costs and amounts in Exhibits A and C are consistent with the description of "allowable costs" in Section 48-46-40(B)(3), and they have been determined by standard accounting practices and are consistent with the recommendations of the Collaborative Review of the OEP as the Commission approved in Order No. 2004-349 in this Docket.

WHEREFORE, Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc., respectfully prays unto this honorable Commission:

1. To review the Company's Application and issue its Order, under S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2010), recognizing the levels of "allowable costs" as depicted in Exhibit A for Fiscal Year 2011-2012, and identifying the levels of irregular costs in Exhibit B for Fiscal Year 2011-2012, and identifying as "allowable costs" those costs depicted in Exhibit C for Fiscal Year 2012-2013.

2. For such other and further relief as is just and proper.

Respectfully submitted,

s/ J. David Black

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September 28, 2012

Columbia, South Carolina